REMARKS

Applicant has cancelled claim 13 and amended claims 1 and 9-11 as set forth above. No new matter has been added by way of these amendments. Applicant notes with appreciation the Office's indication that claims 9-11 and 13 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has objected to claim 1 asserting there is insufficient antecedent basis for the limitation "the type of data". Accordingly, Applicant has amended claim 1 as set forth above to correct the antecedent basis issue. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw this objection.

The Office has rejected claims 1, 2, 4, 7, 12, and 14-17 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,185,647 to Shibuya (Shibuya) in further view of US Patent No. 6,449,090 to Hill (Hill), claims 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibuya in view of and Hill further in view of US Patent No. 6,513,082 to Fischer et al (Fischer), and claim 18 under 35 U.S.C. 103(a) as being unpatentable over Shibuya in view of Hill and further in view of US Patent No. 6,226,702 to Yakashiro (Yakashiro). Additionally, the Office has object to claims 9, 10, 11, and 13as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, Applicant has amended claim 1 to substantially incorporate the subject matter of allowable dependent claim 13, cancelled claim 13, and has rewritten allowable dependent claims 9-11 in independent form including all of the limitations of the base claim and any intervening claims. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1, 2, 4-8, 12, and 14-18 and the objection to claims 9-11.

The Office has rejected claims 19 and 20 under 35 U.S.C. 102(b) as being anticipated by Shibuya. The Office asserts Shibuya discloses: monitoring volume of data in data transfers for a plurality of devices (Col 4, Lines 10-14); and assigning a priority to each device corresponding to the volume of data in data transfers generated by the device (Col 4, Lines 14-18). Additionally, the Office asserts Shibuya discloses: means for monitoring volume of data in data transfers for a plurality of devices (Col 4, Lines 10¬14); and means for

assigning a priority to each device corresponding to the volume of data in data transfers generated by the device (Col 4, Lines 14-18).

Shibuya does not disclose or suggest, "monitoring volume of data in data transfers for a plurality of devices; and assigning a priority to each device corresponding to the volume of data in data transfers generated by the device" as recited in claim 19 or "means for monitoring volume of data in data transfers for a plurality of devices; and means for assigning a priority to each device corresponding to the volume of data in data transfers generated by the device" as recited in claim 20.

As noted above, the Office has asserted these limitations are disclosed at col. 4, lines 10-18 in Shibuya which is set forth below:

> An algorithm for deciding the priority by the priority decision circuit 26 includes counting over a specified period of time the number of accesses of the host computer 10 to the device circuits 22-1 to 22-4 connected to the slots 20-1 to 20-4. The priority decision circuit 26, setting a higher priority when the number of accesses is equal to or more than a predetermined threshold value and setting a lower priority when the number of times of access is less than the predetermined threshold value. (Emphasis added).

Accordingly, Shibuya only discloses deciding priority by counting the number of accesses, not based on the volume of data in data transfers. In response to Applicant's prior remarks, the Office has asserted, "Shibuya's "access frequency" is equivalent to applicant's claimed "volume of data"." Applicant respectfully disagrees with the Office's assertion and directs the Office's attention to the example at page 2, lines 12-17 in the above-identified patent application which is set forth below:

> For example, an internet port may have a history of generating a large amount of data transfer requests, where the amount of data that is transferred is very large. The CPU may have a history of being idle for long periods of time followed by generating a data transfer request for a small amount of data. In this case, the data transfer request from the CPU will be given higher priority, because the time required for the data transfer to or from the CPU will be very small.

Accordingly, if a priority decision is based on counting the number of accesses and setting a higher priority when the number of accesses is equal to or more than a predetermined threshold value as taught by Shibuya, in this example the internet port with the larger number of data transfer requests would be given priority. However, with the present invention the

exact opposite priority decision would be reached in this exemplary scenario because when the volume of data in data transfers is taken into account as opposed to the frequency of access, the CPU with the data transfer request for a small amount of data would be given priority. Thus, since the exact opposite result for determining priority would be achieved, a priority decision based on counting the number of accesses as taught by Shibuya is neither the same nor equivalent to the invention as set forth in claims 19 and 20. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 19 and 20.

In view of all of the foregoing, Applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Date: August 5, 2009

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